

12. TITLE VI

BASIC REQUIREMENT

The grantee must ensure that no person shall, on the grounds of race, color, or national origin, be excluded from participating in, or be denied the benefits of, or be subject to discrimination under any program, or activity receiving Federal financial assistance. The grantee must ensure that Federally supported transit services and related benefits are distributed in an equitable manner.

AREAS TO BE EXAMINED

1. *Approved Title VI Program*
2. *Public Information and Complaint Procedures*
3. *Limited English Proficiency (LEP)*
4. *Outreach*
5. *Subrecipient Monitoring*
6. *Program Specific Requirements for Service Areas with Populations 200,000 and Over*

REFERENCES

1. [FTA C 4702.1A](#), "Title VI and Title VI-Dependent Guidelines for Federal Transit Administration Recipients"

2. [49 CFR Part 21](#), "Nondiscrimination in Federally-assisted Programs of the Department of Transportation--Effectuation of Title VI of the Civil Rights Act of 1964"
3. [Federal Register: April 15, 1997](#) (Volume 62, Number 72, pp. 18377-18381) "Department of Transportation (DOT) Order to Address Environmental Justice in Minority Populations and Low-Income Populations"
4. [Executive Order 13166](#): "Improving Access to Services for Persons with Limited English Proficiency"
5. [Federal Register: December 14, 2005](#) (Volume 70, Number 239, pp. 74087-74100) "DOT Policy Guidance Concerning Recipients' Responsibilities to Limited English Proficiency (LEP) Persons"

USEFUL WEB LINKS

[FTA Title VI page](#)

[Sample U.S. Department of Justice Title VI Notifications](#)

[DOT Limited English Proficiency \(LEP\) Guidance](#)

QUESTIONS FOR THE REVIEW

1. *Has FTA conducted a Title VI Compliance Review during the past two Federal fiscal years? If yes, when was the site visit? Is a review scheduled for the current fiscal year?*

EXPLANATION

As part of its project oversight functions, FTA periodically conducts Title VI reviews of selected grantees.

Even if such a review is scheduled for the current Federal fiscal year or has been recently conducted, all questions in this section are still asked. If a Title VI review has been recently conducted, obtain a copy of the most recent report (draft or final) for input into the review.

REFERENCE

Input to review

SOURCES OF INFORMATION

Prior to conducting the desk review, the reviewer will examine OTrak to determine if a Title VI review has occurred or has been scheduled and to analyze findings and corrective actions from completed Title VI reviews. The regional civil rights officer (RCRO) will also have information on Title VI review activities. Reports may be available at the regional office or from headquarters.

DETERMINATION

None

SUGGESTED CORRECTIVE ACTION

None

2. *Has the grantee submitted a Title VI program to FTA? If yes, when does the approval expire? If the program has expired, please provide an explanation.*

EXPLANATION

Every three years (every four years for MPOs that are direct recipients), all direct grantees must submit a Title VI program that documents their compliance with Chapter IV of FTA C 4702.1A. Section 5307 recipients with service area populations of 200,000 or more must submit a Title VI program that documents their compliance with Chapter IV and Chapter V of FTA C 4702.1A. Designated recipients in large urbanized areas of Section 5316 and 5317 assistance

must submit a Title VI program that documents that they pass through these funds without regard to race, color, or national origin and that minority populations are not being denied the benefits of or excluded from participation in these programs.

REFERENCE

49 CFR 21.9(b)

FTA C 4702.1A, Ch. II, Section 4; Ch. IV, Section 7; Ch. V, Section 6; Chapter VI, Section 2; Appendices A and B

SOURCES OF INFORMATION

The RCRO's files should include a copy of the most recently submitted program. There should be correspondence indicating when it was approved by FTA and when the approval expires.

DETERMINATION

The grantee is deficient if no Title VI program has been submitted or if the Title VI program has expired and the grantee has not made a submission or requested and received an extension for submitting a new program or program update.

SUGGESTED CORRECTIVE ACTION

The grantee will be directed to submit to the FTA RCRO the required Title VI Program.

3. *How does the grantee notify the public of its rights under Title VI?*

EXPLANATION

Grantees and subrecipients shall provide information to the public regarding their Title VI obligations and apprise members of the public of the protections against discrimination afforded to them by Title VI. Grantees and subrecipients that provide transit service shall disseminate this information to the public through measures that can include, but shall not be limited to, a posting on the agency's Web site.

The notice shall include:

- a statement that the agency operates programs without regard to race, color, and national origin;
- a description of the procedures that members of the public should follow in order to request additional information on the recipient's or subrecipient's nondiscrimination obligations; and
- a description of the procedures that members of the public should follow in order to file a

discrimination complaint against the grantee or subrecipient.

FTA C 4702.1A, Chapter IV section 5b provides guidance on how to disseminate this notification.

Grantees can find examples of brochures published by the U.S. Department of Justice that notify the public of their rights under Title VI at <http://www.usdoj.gov/crt/cor/pubs.htm>.

REFERENCE

[49 CFR 21.9\(d\)](#)

[FTA C 4702.1A](#), Ch. IV, Section 5

SOURCES OF INFORMATION

The reviewer will examine the grantee's Title VI program submissions for a description of how this notification requirement is implemented. The reviewer will examine a copy of the materials that the grantee uses to inform the public of their rights under Title VI and a description of how these materials are disseminated. During the site visit, the reviewer will examine marketing materials and postings on vehicles and public facilities.

DETERMINATION

The grantee is deficient if it has not disseminated a Title VI notification. The grantee is also deficient if its only means of dissemination consists of publishing the notice on the agency's website.

SUGGESTED CORRECTIVE ACTION

The grantee will be directed to submit to the FTA RCRO a plan and timeline for developing and disseminating a notification to the public of its rights under Title VI, as well as a copy of the notification that will be disseminated.

4. *How does the grantee identify, investigate and track Title VI complaints? Do these procedures afford the public due process for resolving complaints?*

EXPLANATION

FTA requires its grantees to maintain, as part of their records, a description of the process that they use to investigate Title VI complaints filed against the agency. FTA C 4702.1A states that, "recipients and subrecipients shall develop procedures for investigating and tracking Title VI complaints filed against them and make their procedures for filing a complaint available to the public upon request."

The process for filing a complaint should be easy to understand for the general public and not include unnecessary obstacles. The grantee should have a

system in place whereby it can identify which, if any, of its complaints have been filed because the complainant believes that he or she was denied the benefits of, excluded from participation in, or subject to discrimination on the grounds of race, color, or national origin under any program or activity offered by the grantee. Although the complainant may not refer to Title VI in the complaint to the grantee, the grantee should be able to identify and classify this type of complaint as a Title VI complaint.

Most grantees have a well-established process and schedule for receiving, acknowledging, and screening complaints, conducting investigations, and issuing determinations. This process can be applied to Title VI complaints as long as it provides an adequate process for complaints.

REFERENCE

[49 CFR 21.9\(b\)](#)

[FTA C 4702.1A](#), Ch. IV, Section 2

SOURCES OF INFORMATION

The reviewer will examine the grantee's instructions for filing complaints and its procedures for receiving, investigating and tracking complaints in its Title VI submission. During the site visit, the reviewer will verify implementation. The reviewer will request a copy of Title VI complaints received since the last review. The reviewer will ask the grantee who or what office receives complaints and how staff is trained to identify complaints of discrimination under Title VI.

DETERMINATION

The grantee is deficient if it cannot provide information on how it receives, identifies, and investigates Title VI complaints and/or if the grantee cannot demonstrate that it has a process for tracking discrimination complaints on the basis of race, color, or national origin. The grantee is deficient if the process for filing a complaint includes unnecessary timeframes or barriers or requires the complainant to enter into any agreements with the grantee prior to complaint resolution.

SUGGESTED CORRECTIVE ACTION

The grantee will be directed to submit to the FTA RCRO a written document that describes its procedures for investigating and tracking Title VI complaints.

5. *Has the grantee conducted an analysis of how the four factors in the DOT limited English proficient (LEP) guidance apply to the grantee's programs and activities? What steps has the grantee taken to ensure meaningful access to the benefits,*

services, information, and other important portions of its programs and activities for individuals who are LEP?

EXPLANATION

The U.S. DOT published revised LEP guidance for its recipients on December 14, 2005 (Federal Register, vol. 70, no. 239, pp. 74087–74100, December 14, 2005). The DOT LEP Guidance advises grantees to determine what steps are necessary to provide “meaningful access” on the basis of four factors:

- the number and proportion of LEP persons served or encountered in the eligible service population;
- the frequency with which LEP individuals come into contact with the program, activity, or service;
- the nature and importance of the program, activity, or service provided by the program; and
- the resources available to the recipient and costs.

The DOT LEP Guidance also recommends that grantees develop an implementation plan to address the identified needs of the population it serves. The plan should:

- identify LEP individuals who need language assistance;
- develop language assistance measures;
- address staff training;
- detail how to provide notice to LEP persons; and
- address procedures for monitoring implementation and updating the plan.

Grantees and subrecipients can ensure that LEP persons have meaningful access to their programs and activities by developing and carrying out a language implementation plan pursuant to the recommendations in Section VII of the DOT LEP Guidance. Certain grantees or subrecipients, such as those serving very few LEP persons or those with very limited resources, may choose not to develop a written LEP plan. However the absence of a written LEP plan does not obviate the underlying obligation to ensure meaningful access by LEP persons to a grantee's program or activities. Grantees or subrecipients electing not to prepare a written language implementation plan should consider other ways to reasonably provide meaningful access.

Such methods can include the following actions:

- translating vital written materials into the language of each frequently encountered LEP group
- training bilingual staff to act as interpreters and translators
- using telephonic and video conferencing interpretation services
- formalizing use of qualified community volunteers
- using centralized interpreter and translator services
- hiring staff interpreters
- using symbolic signs (pictographs)
- translating into languages other than English vital written materials, such as applications or instructions on how to participate in a grantee's program, signs in bus and train stations, notices of public hearings and other community outreach, and notices advising LEP persons of free language assistance

REFERENCE

[Executive Order 13166](#)

[DOT LEP Guidance](#)

[FTA C 4702.1A](#), Ch. IV, Section 4

SOURCES OF INFORMATION

The reviewer will examine documentation of how the agency has analyzed the four factors presented in the DOT LEP Guidance. The reviewer will determine whether the agency developed an implementation plan on language assistance. The reviewer will examine examples of language assistance measures that have been implemented, including a listing of vital documents.

DETERMINATION

The grantee is deficient if it has not conducted an analysis of how the four factors in the DOT LEP Guidance apply to the grantee's programs and activities. Even if the grantee has taken specific actions, the grantee is deficient if it has not conducted the four factor analysis.

SUGGESTED CORRECTIVE ACTION

The grantee will be directed to submit to the FTA RCRO a document that describes its plans for conducting the four-factor analysis and provides a timeline for when the analysis will be completed.

The grantee will be directed to submit to the FTA RCRO the completed analysis along with a list of language assistance it has provided or intends to provide and a timeline for providing this assistance.

6. *How has the grantee sought out and considered the viewpoints of minority, low-income, and LEP populations in the course of conducting public outreach and involvement activities?*

EXPLANATION

Grantees and subrecipients should seek out and consider the viewpoints of minority, low-income, and LEP populations in the course of conducting public outreach and involvement activities. An agency's public participation strategy shall offer early and continuous opportunities for the public to be involved in the identification of social, economic, and environmental impacts of proposed transportation decisions.

Some effective practices to promote inclusive public involvement include:

- coordinating with individuals, institutions, or organizations, and implementing community-based public involvement strategies to reach out to members in the affected minority and/or low-income communities;
- providing opportunities for public participation through means other than written communication, such as personal interviews or use of audio or video recording devices to capture oral comments;
- using locations, facilities, and meeting times that are convenient and accessible to low-income and minority communities;
- using different meeting sizes or formats, or varying the type and number of news media used to announce public participation opportunities, so that communications are tailored to the particular community or population; and
- implementing DOT's policy guidance concerning recipients' responsibilities to LEP persons to overcome barriers to public participation.

REFERENCE

[EO 12898, DOT Order 5610.2](#)
[FTA C 4702.1A](#), Ch. IV, Section 9

SOURCES OF INFORMATION

The reviewer will examine the grantee's procedures for outreach in its Title VI program submissions. The reviewer will verify that these procedures have been implemented by reviewing public involvement activities conducted since the last review and a description of the methods used to seek out and consider the viewpoints of minority, low-income, and LEP populations in the course of conducting these public outreach and involvement activities. The

reviewer will examine public hearings, planning activities and program of projects development.

DETERMINATION

The grantee is deficient if it has conducted public outreach activities since the last review but cannot demonstrate that it implemented the public involvement strategies listed in its Title VI program or the bulleted list above.

SUGGESTED CORRECTIVE ACTION

The grantee will be directed to provide to the RCRO a document that describes the measures it will take to promote inclusive public participation in future public involvement activities, as well as a timeline for implementing the proposed procedures.

7. *How does the grantee monitor to ensure that subrecipients comply with Title VI requirements?*

EXPLANATION

The grantee is responsible for ensuring that subrecipients comply with Title VI requirements. The oversight program should ensure that subrecipients notify customers of their rights under Title VI; have Title VI complaint procedures; take reasonable steps to ensure access to LEP populations; and seek out the viewpoints of minority, low-income and LEP populations when conducting public outreach and involvement activities. The grantee should be informed of any Title VI complaints received by its subrecipients.

REFERENCE

[49 CFR 18.37 and 18.40](#)
[49 CFR 21.9\(b\) \(d\)](#)
[FTA C 4702.1A](#), Ch. IV
[Executive Order 13166](#)
[DOT LEP Guidance](#)
[EO 12898, DOT Order 5610.2](#)

SOURCES OF INFORMATION

During the site visit, the reviewer will discuss the grantee's procedures, along with documentation that the procedures have been implemented. The reviewer will examine the grantee's monitoring tools and the oversight files on any subrecipients to be visited.

DETERMINATION

The grantee is deficient if it does not ensure that subrecipients comply with applicable Title VI requirements.

SUGGESTED CORRECTIVE ACTION

The grantee will be directed to provide to the RCRO a document that describes the measures it will take to

monitor subrecipients for compliance with applicable Title VI requirements.

Questions 8-12 apply to grantees that provide service to geographic areas with a population of 200,000 or more under 49 USC 5307.

8. *How has the grantee collected and analyzed demographic data showing the extent to which members of minority groups are beneficiaries of programs receiving FTA financial assistance?*

- *If it prepares demographic and service profile maps and charts, how often are they updated?*
- *If it collects demographic information as part of agency ridership surveys, how and how often is it collected?*
- *If it has developed its own procedures to collect and analyze demographic data on its beneficiaries, how is this implemented?*

EXPLANATION

Grantees that provide service to geographic areas with a population of 200,000 or more under 49 USC 5307 must collect and analyze racial and ethnic data showing the extent to which members of minority groups are beneficiaries of programs receiving Federal financial assistance. This provision of the circular recommends that grantees fulfill this requirement either by preparing demographic and service profile maps and charts (described in Chapter V section 1a), by collecting demographic information as part of agency ridership surveys (described in Chapter V section 1b), or by developing procedures to collect and analyze demographic data on their beneficiaries (described in Chapter V section 1c).

If the grantee prepares demographic and service profile maps and charts, it should update them after each decennial census and prior to proposed service reductions or eliminations. If the grantee collects demographic information as part of agency ridership surveys, it should provide information about how often it collects this information and should include methods to make these surveys accessible to LEP persons. If the grantee uses a locally-developed analysis process, it should provide information on how the analysis is conducted and how it meets the overall requirement to collect and analyze racial and ethnic

data showing the extent to which members of minority groups are beneficiaries of programs receiving Federal financial assistance.

REFERENCE

49 CFR 21.9(b)

FTA C 4702.1A, Ch. V, Section 1

SOURCES OF INFORMATION

The reviewer will examine the Title VI program submission for demographic maps and overlays, results of customer surveys, or information on procedures to collect and analyze demographic data of beneficiaries.

DETERMINATION

The grantee is deficient if it cannot provide maps and overlays, the results of customer surveys, or results of a locally developed method. The grantee is deficient if it has made major service changes, but has not updated its maps or charts. The grantee is deficient if it provides the results of passenger survey information, but a survey has not been conducted in the past three years or if it was not conducted in a manner that was inclusive of LEP persons.

SUGGESTED CORRECTIVE ACTION

The grantee will be directed to submit to the FTA RCRO a document that describes its strategy and timeline for collecting demographic information that is consistent with one of the three options for collecting this information along with a copy of the results.

9. *Are the grantee's system-wide service standards and system-wide service policies reflected in overall agency policies?*

EXPLANATION

Grantees that provide service to geographic areas with a population of 200,000 or more under 49 USC 5307 must set system-wide service standards and policies necessary to guard against discriminatory service design or operation decisions.

Examples of service standards are: (1) vehicle load; (2) vehicle headway; (3) on-time performance; (4) distribution of transit amenities; and (5) service availability. Grantees are free to adopt additional service standards or other standards in lieu of the ones cited in this provision.

Service policies differ from service standards in that they are not necessarily based on a quantitative threshold. Examples of system-wide service policies are vehicle assignment and transit security. Grantees are free to adopt additional service policies or other policies in lieu of those cited in this provision.

The service standards and policies in the Title VI submission should be the same as those used by the agency to monitor its operations. The reviewer should be able to validate the system-wide service standards and policies stated in the Title VI submission with operational information provided by the grantee.

REFERENCE

49 CFR 21.9(b); Appendix C
FTA C 4702.1A, Ch. V, Sections 2 and 3

SOURCES OF INFORMATION

The reviewer will obtain a list of service standards and service policies that the agency has adopted and a description of how the agency defines its standards and policies.

DETERMINATION

The grantee is deficient if it cannot document that system-wide service standards and policies in its Title VI program submission are reflective of overall agency policies. The grantee is also deficient if it has not established any system-wide standards and policies.

SUGGESTED CORRECTIVE ACTION

The grantee will be directed to submit to the FTA RCRO a document that describes its plans for adopting system-wide service standards and policies and provides a timeline for doing so, along with a copy of the adopted standards and policies.

10. *How and how often does the grantee monitor the service it provides to identify any disparities in the level and quality of service provided to different demographic groups? Has the grantee taken corrective action if it determined that disparities exist?*

EXPLANATION

Grantees that provide service to geographic areas with a population of 200,000 or more under 49 USC 5307 shall monitor the transit service provided throughout the grantee's service area. Periodic service monitoring activities shall be undertaken to compare the level and quality of service provided to predominantly minority areas with service provided in other areas to ensure that the end result of policies and decision-making is equitable service.

Grantees must implement one of four service monitoring procedures as follows:

- Option A: Level of Service Methodology, based on a sample of bus routes and (if applicable) fixed guideway routes that provide service to a

demographic cross-section of grantee's population.

- Option B: Quality of Service Methodology, based on an appropriate number of Census tracts or traffic analysis zones that represent a cross-section of grantees population.
- Option C: Title VI Analysis of Customer Surveys, based on most recent passenger survey, grantees should compare the responses from individuals who identified themselves as members of minority groups and/or in low-income brackets, and the responses of those who identified themselves white and/or in middle and upper-income brackets.
- Option D: Locally Developed Alternative, grantees have the option of modifying the above options or developing their own procedures to monitor their transit service to ensure compliance with Title VI.

Monitoring shall be conducted at a minimum once every three years. If a grantee's monitoring determines that prior decisions have resulted in disparate impacts, agencies shall take corrective action to remedy the disparities.

REFERENCE

49 CFR 21.9(b) and Appendix C
FTA C 4702.1A, Ch. V, Section 5

SOURCES OF INFORMATION

The reviewer will examine the monitoring procedures in the Title VI program submission. The reviewer will examine documentation that service monitoring procedures have been conducted within the past three years.

DETERMINATION

The grantee is deficient if it has no acceptable procedures for monitoring service or cannot document that it has monitored service within the past three years.

The grantee is also deficient if its monitoring identified disparities in the level and quality of service provided to minority and non-minority users but did not take corrective action.

SUGGESTED CORRECTIVE ACTION

The grantee will be directed to submit to the FTA RCRO a document that describes its plans for conducting service monitoring, consistent with the procedures in FTA C 4702.1A, Chapter V Section 5, as well as a timeline for and the results of the monitoring conducted.

11. *Has the grantee established guidelines or thresholds for what it considers a “major” service change to be?*

EXPLANATION

Grantees that provide service to geographic areas with a population of 200,000 or more under 49 USC 5307 shall evaluate significant system-wide service and fare changes and proposed improvements at the planning and programming stages to determine whether those changes have a discriminatory impact on minority and low-income riders. This requirement applies to fare changes and “major service changes” only. The grantee should have established guidelines or thresholds for what it considers a “major service change” to be. Often, this is defined as a numerical standard, such as a change that affects 25 percent of service hours of a route.

REFERENCE

[49 CFR 21.5\(b\)\(2\); \(b\)\(7\); and Appendix C](#)
[U.S. DOT Order 5610.2](#)
[FTA C 4702.1A](#), Ch. V, Section 4

SOURCES OF INFORMATION

The reviewer will obtain the threshold for a “major service change” under Title VI in the grantee’s Title VI plan or directly from the grantee.

DETERMINATION

The grantee is deficient if it has not defined a major service change under Title VI.

SUGGESTED CORRECTIVE ACTION

The grantee will be directed to submit to the FTA RCRO its policies for what it constitutes a major service change for the purposes of Title VI.

12. *Has the grantee had a major service change or a fare change since the last review? If yes, has it conducted an internal evaluation of the change(s) to determine whether proposed changes would have a discriminatory impact?*

EXPLANATION

Grantees that provide service to geographic areas with a population of 200,000 or more under 49 USC 5307 shall evaluate significant system-wide service and fare changes and proposed improvements at the planning and programming stages to determine whether those changes have a discriminatory impact on minority and low-income riders.

Chapter V Section 4a recommends specific procedures for conducting an analysis of service changes and fare changes. Chapter V Section 4b states that grantees can conduct an analysis of service and fare changes using a modified version of the procedures in Chapter V Section 4a or a locally-developed set of procedures. Whatever methodology is used, the analytical assessment should adequately evaluate if there will be any disproportionately high and adverse effects on minority and low-income riders. This analysis should measure the impacts borne by the service or fare changes.

Note: This requirement is different from the Section 5307 requirement for public comment for fare increases and major service reductions. (See *Triennial Review Section 13. Public Comment on Fare and Service Changes*) Section 5307 requires a *public comment process* before raising a fare or carrying out a major *reduction* of transportation service. For purposes of Title VI, grantees to which this requirement applies must perform an internal equity evaluation for “major service changes” (both increases and reductions), as locally defined, and fare changes.

REFERENCE

[49 CFR 21.5\(b\)\(2\); \(b\)\(7\); and Appendix C](#)
[U.S. DOT Order 5610.2](#)
[FTA C 4702.1A](#), Ch. V, Section 4

SOURCES OF INFORMATION

The reviewer will obtain a list of service and fare changes that have occurred since the last review and a description of the nature of the changes. The reviewer will examine a description of the methodology used to determine the impact of the service and fare change.

DETERMINATION

The grantee is deficient if it has not established a methodology and/or conducted an analysis of the effects of one or more major service change and/or fare change that have occurred since the last triennial review. The grantee is deficient if the analytical assessment is not adequate to evaluate if there will be any disproportionately high and adverse effects on minority and low-income riders. The grantee is deficient if it has not established a methodology and/or conducted an analysis of any service changes, under the pretense that none of the changes constituted “major service changes.”

SUGGESTED CORRECTIVE ACTION

The grantee will be directed to submit to the FTA RCRO a document that describes a methodology to analyze the impacts of future fare and major service changes.